

REMARKS

Claims 1-60 are pending in the Application; the status of the claims is as follows:

Claims 1-60 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The indication in the Office Action that the Examiner objects to the drawings under 37 C.F.R. § 1.84(o), is noted. Corrected formal drawings are being submitted herewith. The proposed changes include correct designation of Figure 7 and the addition of descriptive labeling to Figure 8.

35 U.S.C. § 112 Rejection

The rejection of claims 1-60 under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, is respectfully traversed based on the following.

Paragraph [0016] of the present Application provides a definition of Fresnel transmittance: "the dependence of the transmittance upon the angle of incidence." Mathematically, this dependence is given by equations 1 and 2 of the present Application. Paragraph [0016] includes significant detail regarding Fresnel transmittance by providing almost two pages of description. With this definition of Fresnel transmittance, a window whose transmittance depends upon the angle of incidence would have Fresnel transmittance properties as found in the limitations of claim 1, 16, 28, 39, and 50. Further, Figures 2a and 2b both illustrate the Fresnel transmittance for a window as a function of the incidence angle for the incident radiation. The Applicants thus believe that both the specification and the corresponding figures provide sufficient support for a window having "Fresnel transmittance properties," as found in each of independent claims 1, 16, 28, 39, and 50, such that the term is both clear and definite.

The Examiner asks in the Office Action whether only certain materials have these Fresnel transmittance properties. The answer is no, as long as the material transmits radiation and has an index of refraction different from that of the surrounding media. In the case of a window with air on either side, this requires the window to have an index of refraction different from 1. Several examples, including ZnSe, Al₂O₃, and Ge, are given in paragraph [0012] of the specification. The specific examples are given for high-speed applications where the window is subjected to significant stress and heat. It should be noted however, that even common window glass has Fresnel transmittance properties.

Based upon the above, it is believed that "Fresnel transmittance properties" is clearly defined within the specification and thus, within the claims. For this reason, claims 1, 16, 28, 39, and 50 are considered definite and to distinctly claim the invention. As claims 2-15, 17-27, 29-38, 40-49, and 51-60 depend from claims 1, 16, 28, 39, and 50 respectively, these dependent claims are asserted to have inherited their indefiniteness from their corresponding independent claims. As each of the independent claims is considered definite, each of the dependent claims is likewise considered definite.

Accordingly, it is respectfully requested that the rejection of claims 1-60 under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a

Application No. 10/729,066
Amendment dated June 25, 2004
Reply to Office Action dated March 31, 2004

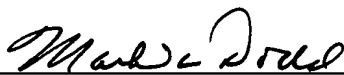
fee, other than the issue fee, is due, please charge this fee to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260.

Any fee required by this document other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

By: 
Mark A. Dodd
Registration No. 45,729
Attorney for Applicants

MAD/llb:jjk:bar
SIDLEY AUSTIN BROWN & WOOD LLP
717 N. Harwood, Suite 3400
Dallas, Texas 75201
Direct: (214) 981-3481
Main: (214) 981-3300
Facsimile: (214) 981-3400
June 28, 2004

DAI 291925v4